



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Region 1 – Northern
601 Locust Street
Redding, CA 96001
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



March 9, 2015

Ms. Michelle Lobo
State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

Subject: Notice of Preparation for the draft Environmental Impact Report for the Lassen Lodge Hydroelectric Project, Federal Energy Regulatory Commission (FERC) Project NO. 12496, Near the Communities of Manton and Mineral, Tehama County

Dear Ms. Lobo:

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced Notice of Preparation (NOP) for the Draft Environmental Impact Report (DEIR) for the Lassen Lodge Hydroelectric Project, State Clearinghouse Number 2015022043 (Project). The Project is located between the towns of Manton and Mineral along South Fork Battle Creek in Tehama County. The Department offers the following comments and recommendations on the Project in our role as the State's trustee for fish and wildlife resources, and as a responsible agency under the California Environmental Quality Act (CEQA), California Public Resources Codes §21000 *et seq.*

Project Description

The Project as stated in the Related Documents referenced in the NOP is:

“...to construct the Lassen Lodge Hydroelectric Project (Project) on the upper South Fork of Battle Creek, in Tehama County. The proposed Project will be located on the western slopes of the Cascade Range approximately 1.5 miles west of the town of Mineral, an unincorporated community in Tehama County. The proposed Project will be a run-of-the-river facility that will have a generating capacity of five megawatts. The sole purpose of the Project is hydropower generation.

Most proposed Project elements will be located on the south side of the South Fork of Battle Creek. Facilities include: a diversion dam, intake structure, flow control/fish screen structure, pipeline and penstock, transition structure, powerhouse, substation, station service line, transmission line, switchyard, and multipurpose areas.

Historically, stream flow in the proposed Project area was diverted into a ditch for lumber conveyance using the natural gradient. It is anticipated that the flow control/fish screen structure will use a segment of the historic ditch.

The Project proposes to take stream water through a penstock located approximately 0.7 miles above Angel Falls, run it through a Pelton wheel turbine and then return the water to the river 2.4 miles downstream above Panther Grade. For reference, Panther Grade is 1.7 miles upstream of the Battle Creek Salmon and Steelhead Restoration Project site."

Project Comments and Recommendations

The Department has met numerous times over the last five years to discuss the potential impacts this Project will have on the environment. The Department appreciates the opportunity to comment on the Project, relative to impacts to biological resources.

The Department is a trustee and responsible agency for the Project. To enable Department staff to adequately review and comment on the proposed Project, we recommend the following information be included in the DEIR, as applicable:

1. A complete assessment of the flora and fauna within and adjacent to the Project area should be conducted, with particular emphasis upon identifying special status species including rare, threatened, and endangered species. This assessment should also address locally unique species, rare natural communities, and wetlands. The assessment area for the Project should be large enough to encompass areas potentially subject to both direct and indirect Project effects. Both the Project footprint and the assessment area (if different) should be clearly defined and mapped in the DEIR.
 - a. The Department's California Natural Diversity Data Base (CNDDDB) should be searched to obtain current information on previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code. In order to provide an adequate assessment of special-status species potentially occurring within the Project vicinity, the search area for CNDDDB occurrences should include all U.S. Geological Survey 7.5-minute topographic quadrangles with Project activities, and all adjoining 7.5-minute topographic quadrangles. The DEIR should discuss how and when the CNDDDB search was conducted, including the names of each quadrangle queried, or why any areas may have been intentionally excluded from the CNDDDB query. Other electronic data bases such as the California Native Plant Society and the U.S. Fish and Wildlife Service should also be consulted.

- b. A complete assessment of rare, threatened, and endangered invertebrate, fish, wildlife, reptile, and amphibian species should be presented in the DEIR. Rare, threatened, and endangered species to be addressed shall include all those which meet the CEQA definition (see CEQA Guidelines, § 15380). Seasonal variations in use of the Project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with the Department and the U.S. Fish and Wildlife Service. Links to some survey procedures are provided on the Department's website.¹
- c. Species of Special Concern (SSC) status applies to animals generally not listed under the federal Endangered Species Act or the California Endangered Species Act (CESA), but which nonetheless are declining at a rate that could result in listing, or historically occurred in low numbers and known threats to their persistence currently exist. SSC's should be considered during the environmental review process; specifically, foothill yellow-legged frog (*Rana boylei*), Cascades frog (*Rana cascadae*) and any impacts associated with Project operations (see 2. Below).
- d. Fully Protected (FP) animals may not be taken or possessed at any time and the Department is not authorized to issue permits or licenses for their incidental take². FP animals should be considered during the environmental review process and all Project-related take must be avoided.
- e. A thorough assessment of rare plants and rare natural communities should be conducted, following the Department's November 2009 *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (Attachment 1).
- f. A detailed vegetation map should be prepared, preferably overlaid on an aerial photograph. The map should be of sufficient resolution to depict the locations of the Project site's major vegetation communities, and show Project impacts relative to each community type. The vegetation classification

¹ http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html

² Scientific research, take authorized under an approved NCCP, and certain recovery actions may be allowed under some circumstances; contact the Department for more information.

system used to name the polygons should be described. Special Status natural communities should be specifically noted on the map.

- g. The DEIR should include survey methods, dates, and results, and should list all plant and animal species detected within the Project study area. Special emphasis should be directed toward describing the status of rare, threatened, and endangered species in all areas potentially affected by the Project. All necessary biological surveys should be conducted in advance of DEIR circulation, and should not be deferred until after Project approval.
2. A thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, should be included.
 - a. The DEIR should present clear thresholds of significance to be used by the Lead Agency in its determination of environmental effects. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect.
 - b. CEQA Guidelines, § 15125, direct that knowledge of environmental conditions at both the local and regional levels is critical to an assessment of environmental impacts and that special emphasis shall be placed on resources that are rare or unique to the region.
 - c. Impacts associated with initial Project implementation as well as long-term operation and maintenance of the Project should be addressed in the DEIR pursuant to CEQA Guidelines 15126.2 (a).
 - d. In evaluating the significance of the environmental effect of the Project, the Lead Agency should consider direct physical changes in the environment which may be caused by the Project and reasonably foreseeable indirect physical changes in the environment which may be caused by the Project. Expected impacts should be quantified (e.g., acres, linear feet, number of individuals taken, volume or rate of water extracted, etc. to the extent feasible).
 - e. Project impacts should be analyzed relative to their effects on off-site habitats and species. Specifically, this may include public lands, open space, downstream aquatic habitats, areas of

groundwater depletion, or any other natural habitat or species that could be affected by the Project.

- f. Impacts to and maintenance of wildlife corridor/movement areas and other key seasonal use areas should be fully evaluated and provided.
 - g. A discussion of impacts associated with increased lighting, noise, human activity, impacts of free-roaming domestic animals including dogs and cats, changes in drainage patterns, changes in water volume, velocity, quantity, and quality, soil erosion, and/or sedimentation in streams and water courses on or near the Project site.
 - h. Special considerations applicable to linear projects include ground disturbance that may facilitate infestations by exotic and invasive species over a great distance.
 - i. A cumulative effects analysis shall be developed for species and habitats potentially affected by the Project. This analysis shall be conducted as described under CEQA Guidelines, § 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts to species and habitats.
3. A range of Project alternatives should be analyzed to ensure that the full spectrum of alternatives to the proposed Project are fully considered and evaluated. Alternatives which avoid or otherwise minimize impacts to sensitive biological resources shall be identified.
 - a. If the Project will result in any impacts described under the Mandatory Findings of Significance (CEQA Guidelines, § 15065) the impacts must be analyzed in depth in the DEIR, and the Lead Agency is required to make detailed findings on the feasibility of alternatives or mitigation measures to substantially lessen or avoid the significant effects on the environment. When mitigation measures or Project changes are found to be feasible, such measures should be incorporated into the Project to lessen or avoid significant effects.
 4. Mitigation measures for adverse Project-related impacts to sensitive plants, animals, and habitats should be developed and thoroughly discussed. Mitigation measures should first emphasize avoidance and reduction of Project impacts. For unavoidable impacts, the feasibility of on-site habitat restoration or enhancement should be discussed. If on-site mitigation is not feasible, off-site mitigation through habitat

creation, enhancement, acquisition and preservation in perpetuity should be addressed.

- a. The Department generally does not support the use of relocation, salvage, and/or transplantation as mitigation for most impacts to rare, threatened, or endangered species. Studies have shown that these efforts are experimental in nature and largely unsuccessful. If considered, these types of mitigation measures must be discussed with the Department prior to release of the DEIR.
 - b. Areas reserved as mitigation for Project impacts shall be legally protected from future direct and indirect development impacts. Potential issues to be considered include public access, conservation easements, species monitoring and management programs, water pollution, and fire management.
 - c. Plans for restoration and revegetation should be prepared by persons with expertise in northern California ecosystems and native plant revegetation techniques. Each plan should include, at a minimum: (a) the location of the mitigation site; (b) the plant species to be used, container sizes, and/or seeding rates; (c) a schematic depicting the mitigation area; (d) planting/seeding schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for long-term conservation of the mitigation site.
5. Take of species of plants or animals listed as endangered or threatened under CESA is unlawful unless authorized by the Department. However, a CESA 2081(b) Incidental Take Permit may authorize incidental take during Project construction or over the life of the Project. The DEIR must state whether the Project could result in any amount of incidental take³ of any CESA-listed species. Early consultation for incidental take permitting is encouraged, as significant modification to the Project's description and/or mitigation measures may be required in order to obtain a CESA Permit.

The Department's issuance of a CESA Permit for a project that is subject to CEQA will require CEQA compliance actions by the Department as a Responsible Agency. The Department as a

³ Even a single individual.

Responsible Agency under CEQA will consider the Lead Agency's Negative Declaration or Environmental Impact Report for the Project. The Department may require additional mitigation measures for the issuance of a CESA Permit unless the Project CEQA document addresses all Project impacts to listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of a CESA Permit.

To expedite the CESA permitting process, the Department recommends that the DEIR addresses the following CESA Permit requirements:

- a. The impacts of the authorized take are minimized and fully mitigated;
 - b. The measures required to minimize and fully mitigate the impacts of the authorized take and: (1) are roughly proportional in extent to the impact of the taking on the species; (2) maintain the applicant's objectives to the greatest extent possible, and (3) are capable of successful implementation;
 - c. Adequate funding⁴ is provided to implement the required minimization and mitigation measures and to monitor compliance with and the effectiveness of the measures; and
 - d. Issuance of the permit will not jeopardize the continued existence of a State-listed species.
6. The Department has responsibility for wetland and riparian habitats. It is the policy of the Department to strongly discourage development in wetlands or conversion of wetlands to uplands. We oppose any development or conversion which would result in a reduction of wetland acreage or wetland habitat values, unless, at a minimum, Project mitigation assures there will be "no net loss" of either wetland habitat values or acreage. The DEIR should demonstrate that the Project will not result in a net loss of wetland habitat values or acreage.
- a. If the Project site has the potential to support aquatic, riparian, or wetland habitat, a delineation of lakes, streams, and associated riparian habitats potentially affected by the Project should be provided for agency and public review. This report should include a preliminary jurisdictional delineation including wetlands identification pursuant to the U.S. Fish and Wildlife Service wetland definition⁵ as adopted by the Department⁶.

⁴ A letter of credit or cash security is typically required.

⁵ Cowardin, Lewis M., et al. 1979. Classification of Wetlands and Deepwater Habitats of the United States. U.S. Department of the Interior, Fish and Wildlife Service.

Please note that some wetland and riparian habitats subject to the Department's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers. The jurisdictional delineation should also include mapping of ephemeral, intermittent, and perennial stream courses potentially impacted by the Project. In addition to "federally protected wetlands" (see CEQA Appendix G), the Department considers impacts to any wetlands (as defined by the Department) as potentially significant.

- b. The Project may require a Lake or Streambed Alteration Agreement, pursuant to Section 1600 et seq. of the Fish and Game Code, with the applicant prior to the applicant's commencement of any activity that will substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank (which may include associated riparian resources) of a river, stream or lake, or use material from a streambed. The Department's issuance of a Lake or Streambed Alteration Agreement for a project that is subject to CEQA will require CEQA compliance actions by the Department as a Responsible Agency. The Department as a Responsible Agency under CEQA may consider the local jurisdiction's (Lead Agency) Negative Declaration or Environmental Impact Report for the Project. To minimize additional requirements by the Department pursuant to Section 1600 et seq. and/or under CEQA, the document should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the agreement. The project as proposed requires notification to the Department pursuant to 1600 et seq. of the Fish and Game Code. A Streambed Alteration Agreement notification package may be obtained through the Department's website at <http://www.dfg.ca.gov/habcon/1600/>.

⁶ California Fish and Game Commission Policies: Wetlands Resources Policy; Wetland Definition, Mitigation Strategies, and Habitat Value Assessment Strategy; Amended 1994

Ms. Michelle Lobo
March 9, 2015
Page 9

The Department appreciates the opportunity to comment on this Project. Questions regarding this letter and further coordination on this Project should be directed to Matt Myers, Senior Environmental Specialist, at (530) 225-3846 or by email Matt.Myers@wildlife.ca.gov.

Sincerely,



Curt Babcock

Habitat Conservation Program Manager

ec: State Clearinghouse,
Messrs. Neil Manji, Curt Babcock, Michael Harris, Matt Myers, and
Mss. Michelle Lobo, Donna Cobb and Amy Henderson
state.clearinghouse@opr.ca.gov
neil.manji@wildlife.ca.gov, curt.babcock@wildlife.ca.gov,
michael.r.harris@wildlife.ca.gov, matt.myers@wildlife.ca.gov,
michelle.lobo@waterboards.ca.gov, donna.cobb@wildlife.ca.gov,
amy.henderson@wildlife.ca.gov